

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA

MAURICIO FERREYROS	*	CIVIL ACTION
	*	
VERSUS	*	NO. 1:24-cv-00021
	*	
COX OPERATING LLC ET AL.	*	JUDGE KRISTI K. DUBOSE
	*	MAG. JUDGE WILLIAM E.CASSADY

**COMBINED MOTION AND BRIEF TO FILE UNOPPOSED
SUPERSEDING/AMENDED COMPLAINT FOR DAMAGES
PURSUANT TO FRCP 15**

NOW INTO COURT, through undersigned counsel, comes Mauricio Ferreyros and upon representing that Plaintiff desires to file the attached Superseding/Amended Complaint for Damages to clarify the basis for jurisdiction and venue in the Court, and to generally clean up and clarify the complaint for this action recently transferred to this Court from the Eastern District of Louisiana.

Neither the district judge in the Eastern District of Louisiana nor this Court has entered a FRCP 16 schedule. Thus, plaintiff brings this motion under FRCP 15, which under the circumstances here, permits amendments to pleadings with the parties' consent and when justice so requires. FRCP 16 sets forth a more stringent good cause requirement to amend pleadings after a district court enters a scheduling order.

In this case, the United States appeared for purposes of filing the motion to transfer venue, which plaintiff did not oppose, and the Cox defendants have not yet answered. The United States, through its counsel, consents to plaintiff's filing the proposed superseding

complaint, and although the Cox defendants have yet to appear, they too, through their counsel consent to plaintiff's filing the proposed superseding complaint.

The basic allegation in the proposed superseding complaint remains the same as those contained in plaintiff's original complaint. Plaintiff does not seek any new causes of action or theories of recovery that were not initially plead. Rather, the proposed superseding complaint seeks to clean up the pleading, by correcting the caption of this matter to reflect the court in which it is now pending, by clarifying certain factual statements pertaining to the Coast Guard vessel involved in the alleged occurrence, and by correctly asserting the basis for subject matter jurisdiction, personal jurisdiction and venue in this Court.

For these reasons, plaintiff requests the Court to grant his motion to file the proposed superseding complaint.

Respectfully submitted:

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BY: */s/ Stephen J. Johnson*

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